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Stingray snared him, now he helps write rules for surveillance device

HIGHLIGHTS

When state Rep. David Taylor proposed a bill that would change how police seek permission to use a controversial cellphone surveillance device, an Arizona resident who has a unique history with the device took note.

By Kate Martin - Staff writer

When state Rep. David Taylor proposed a bill that would change how police seek permission to use a controversial cellphone surveillance device, an Arizona resident took note.

Since then, Daniel Rigmaiden has helped refine the bill's definition of a cell site simulator, a device commonly called by its brand name, Stingray. The bill reached its latest milestone Monday, when state senators passed it out of the Law and Justice Committee.

If anyone knows how a cell site simulator works, it's Rigmaiden. He is best known for exposing the existence of Stingrays while defending himself in federal court against 73 counts of fraud, identity theft and conspiracy for filing fake tax returns and depositing hundreds of thousands of dollars in Arizona bank accounts.

In reviewing his case, Rigmaiden discovered the FBI had used the device to find him in his northern California apartment in 2008. He alleged the electronic intrusion into his apartment was an illegal search. A judge ruled against him.

Last April, Rigmaiden pleaded guilty to charges of conspiracy, mail fraud and two counts of wire fraud and was sentenced to 68 months in prison —the time he served while awaiting trial.

Since Rigmaiden's discovery, dozens of police agencies around the country have admitted or been found to possess Stingray-type equipment.

The News Tribune reported last year that the Tacoma Police Department used the surveillance device as early as 2009, the first known instance of a police department deploying the technology in Washington.

Pierce County Superior Court judges said they had no idea the police were using the technology, which can pretend to be a cellphone tower to collect data from everyone in an area. The judges have since demanded that police officers seeking court permission to track a suspect's phone say when they intend to use a cell site simulator.

Taylor's bill would, in part, replicate that Pierce County practice across the state. Amendments suggested by the Seattle office of the American Civil Liberties Union require police to tell judges about the device's capability and get permission from a judge before deploying the device.

"The technology is fairly complicated, and we wanted to make sure the definitions were appropriate in scope," Jared Friend, technology and liberty director for the ACLU, said Monday. "... We have seen judges confused and misinformed about these issues."

The ACLU —which has worked with Taylor, R-Moxee, on several government surveillance issues —also drew on Rigmaiden's suggestions to refine the definition of a cell site simulator to include devices that locate suspects, intercept information, jam signals or install malicious software.

"The reality is he is one of the foremost experts in the field," Friend said of Rigmaiden.

Since his release, Rigmaiden, 34, has continued to investigate surveillance issues. He recently spoke at a privacy, surveillance and technology seminar for Arizona attorneys about police use of Stingrays. He also consulted with the ACLU of Northern California on a guide for criminal defense attorneys on how to tell if a Stingray was used to locate their clients.

Rigmaiden said he wanted to help write the Washington bill because he wanted to set a good standard.

"Other states will grab that law and use it as an example to write their own laws," Rigmaiden said Monday.

Friend said a handful of states have laws aimed at regulating police use of cell site simulators. But if Taylor's passes, it will be the first one to require police to delete information collected from those who are not the target of that police request.

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